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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,002	07/26/2001	Hidetoshi Ichioka	450100-03360	1131

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FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
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SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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05/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/916,002	<b>Applicant(s)</b> ICHIOKA, HIDETOSHI	
	<b>Examiner</b> Justin E. Shepard	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Grauch in view of Connelly in view of Ten Kate.

Referring to claim 1, Wood discloses a content-exhibition control apparatus for exhibiting content in another apparatus (figs. 8 and 9; [0049]; [0050]),

comprising: generating means for generating degree-of-exposure control data used to control the degree of exposure of the content; exhibition control means for controlling the exhibition of the content recorded in the another apparatus according to the degree- of-exposure control data generated by the generating means; (by clicking a name in the channel guide, a dot is placed on the screen and the program is recorded, thereby controlling the 'degree-of-exposure' [0049]; fig. 8; by specifying all shows in a series to be recorded, a double dot is displayed and also controls the 'degree-of-exposure'; fig. 9; [0050]);

obtaining means for obtaining the state data of the content sent from the another apparatus (the "state data" is reflective of whether a single program or all shows in a series are recorded; figs. 8 and 9; [0049]; [0050]),

wherein the generating means generates the degree-of exposure control data according to the state data of the content, obtained by the obtaining means (the 'degree-of- exposure' is dependent on the number of dots displayed, which is displayed according the 'state data' or whether the show or series is to be recorded figs. 8 and 9; [0049]; [0050]);

storing means (104) for storing user information which includes user preferences with the state data (a user criteria indicates whether a single program or all shows in a series are recorded, wherein the user criteria of preferences is stored) the content collected from a hard-disk recorder in a customer database (fig. 4, el. 403; [0042-0044]; [0049- 0050]); and

feedback means for feeding back said degree of exposure of the content (paragraph 53, lines 6-14),

Wood does not disclose an apparatus wherein an audience rating and an advertisement effect are calculated as a function of the feedback data; and wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation and the degree of exposure designation is updated when rescheduling is performed; and

with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling not viewed content.

In an analogous art, Grauch teaches an apparatus wherein an audience rating and an advertisement effect are calculated as a function of the feedback data (column 20, lines 37-54; column 21, lines 29-38).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the advertisement rating taught by Grauch to the apparatus disclosed by Wood. The motivation would have been to enable the advertisers to track which advertisements were actually being viewed (Grauch: column 21, lines 29-38).

Wood and Grauch does not disclose an apparatus wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation and the degree of exposure designation is updated when rescheduling is performed; and

with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling not viewed content.

In an analogous art, Connelly teaches an apparatus wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation and the degree of exposure designation is updated when rescheduling is performed (column 7, lines 3-13).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the reproduction counting taught by Connelly to the apparatus disclosed by Wood and Grauch. The motivation would have been to keep an accurate count of the user's behavior so that future recorded programs would better suit the user's taste.

Woods, Grauch and Connelly do not disclose an apparatus with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling not viewed content.

In an analogous art, Ten Kate teaches an apparatus with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling not viewed content (column 2, lines 21-52).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the program rescheduling method taught by Ten Kate to the apparatus disclosed by Woods, Grauch and Connelly. The motivation would have been to enable the system to fill in dead spots of the programming lineup with programs that the viewer would be interested in (Ten Kate: column 2, lines 21-52).

Claim 3 is rejected on the same grounds as claim 1.

Referring to claim 2, Wood discloses the degree-of-exposure control data includes a content ID (name of the program; figs. 8 and 9; [0049]; [0050]),

an exposure type (recorded or not recorded figs. 8 and 9; [0049]; [0050]),

and an exposure value (single or double dot figs. 8 and 9; [0049]; [0050]);

and the state data of the content includes a viewing condition and a degree-of-exposure condition (the 'viewing condition' is whether the program will be recorded and available for future viewing', the display of dots figs. 8 and 9 is the 'degree-of-exposure' of the 'state data,' or whether or not the program will be/has been recorded'; [0049]; [0050]).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623

JS